

**NEW FRANK  
CASE  
BRIEF  
ATTACKS  
ROAN AGAIN**

---

**Judge's Doubt as to  
Guilt or In-**

# **nocence of Prisoner Subject of Extended Argument**

---

Judge L. S. Roan's doubt as to the guilt or innocence of Leo M. Frank, given expression at the time the motion for a new trial was overruled, will be the subject of an extended argument in the supplemental brief to be filed Saturday with the Supreme Court by the attorneys for the defense.

Because of Attorney General Felder's vigorous argument before the Supreme Court, attacking the validity of the incorporation of Judge Roan's expression of doubt in the bill of exceptions, this incident of the long legal battle for Frank's life, touched on only lightly in the original brief and argument of the defense, and mentioned in the oral arguments not at all, is deemed worthy of a thorough discussion in the supplemental brief.

Directly contradicting the Attorney General's contention that it was an unprecedented and highly dangerous procedure to use the bill of exceptions as a vehicle for the court's opinion or lack of opinion, the supplemental brief holds Judge Roan, having shirked or mistaken his duty in the first place in failing to grant a new trial, had no recourse left as an official desiring impartially to administer justice but to certify to his expression of opinion at conclusion of the hearing for a new trial.

## **Cites Former Reversals.**

So far from being an unimportant or negligible ground for a new trial, the supplemental brief sets forth that the Supreme Court of Georgia in previous cases has repeatedly reversed the court below where it appeared from the record that the trial court,

from timidity or from misapprehension of the law, failed to exercise his own discretion and substituted the verdict of the jury for that discretion which it was his solemn duty to exercise.

A number of cases were cited in the original brief and argument, and were not made the subject of any discussion. In the supplemental brief each one is taken up with some minuteness and commented upon in their bearing on the Frank case.

The remainder of the supplemental brief is largely occupied with what the defense characterizes as the misstatements and misrepresentations of Solicitor General Dorsey. Reuben R. Arnold, of counsel for Frank, said Friday that he did not wish the impression to get abroad that the defense claimed or believed that the alleged misstatements were in any way intentional on the part of the Solicitor.

"There is no doubt in our minds, he said," he said, "that the prosecution deviated from the facts of the case a number of times. It also is true that improper inferences were drawn in the arguments that were made by the State.

### **Tape Evidence Recalled.**

"But it is not our intention at all to charge that these misrepresentations were made purposely. All that we are doing is to call them to the attention of the Supreme Court without an effort or desire to imply an improper motive in their presentation."

One of the most glaringly improper inferences drawn by the Solicitor, according to the supplemental brief, was contained in his charge that another tape had been substituted by Frank for the one taken out of the time clock the morning the body of Mary Phagan was found. Everything in the evidence, says the argument, pointed to the conclusion that it was the identical tape taken from the clock.